

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

**In re:
Paul Gayle**

Debtor.

Chapter: 13

CASE No: 18-23199-rdd

OBJECTION TO LOSS MITIGATION REQUEST

Aleksandra K. Fugate, attorney(s) for Wells Fargo Bank, N.A., affirms under penalty of perjury as follows:

1. This Objection is submitted in response to the Loss Mitigation Request by Debtor filed on October 9, 2018.
2. The loan originated on February 11, 2008, with an interest rate of 7.850% and the first payment being due on April 1, 2008. At the time of origination, Debtor's income was calculated as \$12,651.00.
3. Debtor is currently 76 payments delinquent and the loan is currently due for the July 1, 2012 payment.
4. The Secured Creditor has attempted multiple times to work with the Debtor in regards to the default and has completed multiple reviews.
5. Debtor made only six payments before defaulting on the loan.
6. Debtor entered loss mitigation and was removed as of March 30, 2009 as Debtor did not provide income documents.
7. Debtor was reviewed and received a modification as of April 9, 2009. Income used at time of decision was calculated as \$9,977.29. The modification extended to a 40 year

term and reduced the interest rate to 5.75%, which gradually increased to 6.50% on June 1, 2016.

8. Debtor entered loss mitigation and was removed as of August 13, 2010 as Debtor did not provide documents to complete the review.
9. Debtor was reviewed for a loan modification and denied as of October 21, 2010 due to an affordable payment could not be obtained. Debtor was denied for HAMP due to excessive forbearance and HTI could not be met. Income was calculated at \$9,784.67.
10. Debtor was reviewed and approved for a HAMP Modification with the first payment being due on September 1, 2011. The modification term was extended to 480 months and the interest rate was reduced to 2.0% (3.0% as of 8/1/2016, 4.0% as of 8/1/2017, and 4.5% as of 8/1/2018). Monthly income was calculated as \$9,937.68.
11. Debtor made eleven payment before re-defaulting on the loan.
12. Debtor was reviewed for a loan modification and denied as of November 18, 2013 and appeal denial as of December 22, 2013 due to excessive forbearance threshold could not be reached. Debtor was denied for HAMP Tier 2 due to insufficient monthly payment reduction. Monthly income was calculated as \$6,969.20.
13. Debtor entered loss mitigation and was removed as of January 22, 2014 as Debtor did not provide documents to complete the review.
14. Debtor was reviewed for a loan modification and denied as of February 4, 2015 and appeal denial as of March 13, 2015 due to Debtor having the ability to make monthly payments. Debtor was denied for HAMP Tier 2 due to insufficient monthly payment reduction. Monthly income was calculated as \$11,320.47.

15. Debtor was reviewed for a loan modification and denied as of August 22, 2016 and appeal denial as of November 2, 2016 due to negative NPV. Debtor was denied for HAMP Tier 2 due to insufficient monthly payment reduction, the post modification DTI was greater than 42% and negative NPV. Monthly income was calculated as \$8,954.00.
16. According to Debtors filed schedules, currently monthly gross income is calculated as \$10,238.00.
17. Given the history of the loan and that the hardship over the years has remained the same, two prior modifications, and a current interest rate of 2.0%, the Secured Creditor requests an Order not be entered and the Request for Loss Mitigation be denied.

Dated: October 22, 2018

/s/ Aleksandra K. Fugate
Aleksandra K. Fugate, Esq.
WOODS, OVIATT, GILMAN LLP
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UNITED STATES BANKRUPTCY COURT
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IN RE:

PAUL GAYLE

CASE NO: 18-23199-rdd

DEBTOR.

AFFIDAVIT OF
SERVICE BY MAIL

I, Jessica Diabo, being duly sworn, deposes and says: Deponent is not a party to this action, is over 18 years of age, and resides in Rochester, New York. On October 22, 2018 deponent served an Objection to Loss Mitigation Request upon:

Paul Gayle
166 Sheridan Avenue
Mount Vernon, NY 10552

Anne J. Penachio
Penachio Malara LLP
245 Main Street
Suite 450
White Plains, NY 10601

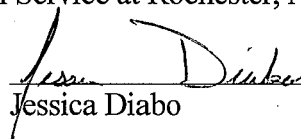
Trustee

Krista M. Preuss
Chapter 13 Standing Trustee
399 Knollwood Road
White Plains, NY 10603

U.S. Trustee

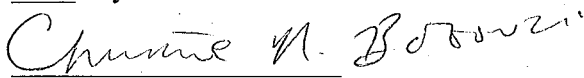
United States Trustee
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10014

By deposit a true copy, in a postpaid properly addressed envelope, in a post office box under the exclusive care and custody of the United States Postal Service at Rochester, New York



Jessica Diabo

Sworn to before me this
22nd day of October 2018.



Notary Public

CHRISTINE N. BOBOWSKI
NOTARY PUBLIC-STATE OF NEW YORK
No. 01506278567
Qualified in Monroe County 21
My Commission Expires March 25, 20____